

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

THE BURLINGTON INSURANCE CO.,)
)
 Plaintiff,)
)
 vs.)
)
COLUMBIA MUTUAL INSURANCE CO.,)
)
 Defendant.)

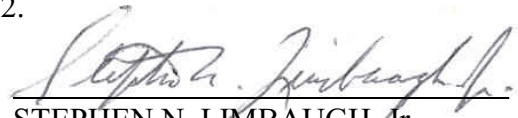
Case No. 1:11-CV-214 SNLJ

MEMORANDUM AND ORDER

Defendant Columbia Mutual Insurance Company filed its motion to dismiss (#10) on January 30, 2012. Plaintiff Burlington Insurance Company responded on February 6, 2012 (#12). Defendant filed its reply brief on February 13, 2012 (#13). In its reply, defendant raises a new ground, in the alternative, upon which it suggests the Court may dismiss plaintiff's complaint. The ground was not previously raised in its motion to dismiss. Plaintiff filed a motion to strike the defendant's new, previously-unraised argument on February 15, 2012 (#14).

Defendant responded by suggesting that defendant be permitted to file a supplemental motion to dismiss or, alternatively, allow plaintiff time to respond to defendant's newly-raised alternative argument. The Court will permit plaintiff 21 days from the date of this order by which to respond to defendant's newly-raised argument. Defendant will have seven days in which to file a reply memorandum.

SO ORDERED this 11th day of July, 2012.


STEPHEN N. LIMBAUGH, Jr.
UNITED STATES DISTRICT JUDGE